

114TH CONGRESS  
2D SESSION

# H. R. 6477

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IN THE SENATE OF THE UNITED STATES

DECEMBER 8, 2016

Received

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## AN ACT

To amend chapter 97 of title 28, United States Code, to clarify the exception to foreign sovereign immunity set forth in section 1605(a)(3) of such title.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1   **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Foreign Cultural Ex-  
3       change Jurisdictional Immunity Clarification Act”.

4   **SEC. 2. CLARIFICATION OF JURISDICTIONAL IMMUNITY OF  
5                   FOREIGN STATES.**

6       (a) IN GENERAL.—Section 1605 of title 28, United  
7       States Code, is amended by adding at the end the fol-  
8       lowing:

9       “(h) JURISDICTIONAL IMMUNITY FOR CERTAIN ART  
10      EXHIBITION ACTIVITIES.—

11       “(1) IN GENERAL.—If—

12               “(A) a work is imported into the United  
13       States from any foreign state pursuant to an  
14       agreement that provides for the temporary exhi-  
15       bition or display of such work entered into be-  
16       tween a foreign state that is the owner or cus-  
17       todian of such work and the United States or  
18       one or more cultural or educational institutions  
19       within the United States;

20               “(B) the President, or the President’s des-  
21       ignee, has determined, in accordance with sub-  
22       section (a) of Public Law 89–259 (22 U.S.C.  
23       2459(a)), that such work is of cultural signifi-  
24       cance and the temporary exhibition or display  
25       of such work is in the national interest; and

1               “(C) the notice thereof has been published  
2               in accordance with subsection (a) of Public Law  
3               89–259 (22 U.S.C. 2459(a)),  
4               any activity in the United States of such foreign  
5               state, or of any carrier, that is associated with the  
6               temporary exhibition or display of such work shall  
7               not be considered to be commercial activity by such  
8               foreign state for purposes of subsection (a)(3).

9               “(2) EXCEPTIONS.—

10               “(A) NAZI-ERA CLAIMS.—Paragraph (1)  
11               shall not apply in any case asserting jurisdiction  
12               under subsection (a)(3) in which rights in  
13               property taken in violation of international law  
14               are in issue within the meaning of that subsection  
15               and—

16               “(i) the property at issue is the work  
17               described in paragraph (1);

18               “(ii) the action is based upon a claim  
19               that such work was taken in connection  
20               with the acts of a covered government during  
21               the covered period;

22               “(iii) the court determines that the  
23               activity associated with the exhibition or  
24               display is commercial activity, as that term  
25               is defined in section 1603(d); and

1                     “(iv) a determination under clause  
2                     (iii) is necessary for the court to exercise  
3                     jurisdiction over the foreign state under  
4                     subsection (a)(3).

5                     “(B) OTHER CULTURALLY SIGNIFICANT  
6                     WORKS.—In addition to cases exempted under  
7                     subparagraph (A), paragraph (1) shall not  
8                     apply in any case asserting jurisdiction under  
9                     subsection (a)(3) in which rights in property  
10                    taken in violation of international law are in  
11                    issue within the meaning of that subsection  
12                    and—

13                    “(i) the property at issue is the work  
14                    described in paragraph (1);

15                    “(ii) the action is based upon a claim  
16                    that such work was taken in connection  
17                    with the acts of a foreign government as  
18                    part of a systematic campaign of coercive  
19                    confiscation or misappropriation of works  
20                    from members of a targeted and vulnerable  
21                    group;

22                    “(iii) the taking occurred after 1900;

23                    “(iv) the court determines that the ac-  
24                    tivity associated with the exhibition or dis-

1 play is commercial activity, as that term is  
2 defined in section 1603(d); and

3 “(v) a determination under clause (iv)  
4 is necessary for the court to exercise juris-  
5 diction over the foreign state under sub-  
6 section (a)(3).

7 “(3) DEFINITIONS.—For purposes of this sub-  
8 section—

9 “(A) the term ‘work’ means a work of art  
10 or other object of cultural significance;

11 “(B) the term ‘covered government’  
12 means—

13 “(i) the Government of Germany dur-  
14 ing the covered period;

15 “(ii) any government in any area in  
16 Europe that was occupied by the military  
17 forces of the Government of Germany dur-  
18 ing the covered period;

19 “(iii) any government in Europe that  
20 was established with the assistance or co-  
21 operation of the Government of Germany  
22 during the covered period; and

23 “(iv) any government in Europe that  
24 was an ally of the Government of Germany  
25 during the covered period; and

1               “(C) the term ‘covered period’ means the  
2               period beginning on January 30, 1933, and  
3               ending on May 8, 1945.”.

4               (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall apply to any civil action commenced on  
6 or after the date of the enactment of this Act.

7 **SEC. 3. NOTIFICATION.**

8               The Secretary of State shall ensure that foreign  
9 states that apply for immunity under Public Law 89–259  
10 (22 U.S.C. 2459) are appropriately notified of the text of  
11 this Act.

Passed the House of Representatives December 8,  
2016.

Attest:

KAREN L. HAAS,

*Clerk.*